

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 6.08 of the Lincoln Municipal Code
2 relating to Dogs by amending Section 6.08.010 to add a definition for “dog hobby kennel”,
3 and to amend the definition of “kennel”; amending Section 6.08.040 to provide the word
4 “Lincoln” be die-stamped on dog tags; amending Section 6.08.150 to provide that owners of
5 dogs shall dispose of waste material accumulating from their dogs at least once every five
6 days; amending Section 6.08.310 to include dog hobby kennel permit holders as exceptions
7 to dog kennel prohibition; adding a new section numbered 6.08.311 creating an exception
8 to having a dog kennel for persons on land that is annexed by the City; adding a new section
9 numbered 6.08.313 to require permits for dog hobby kennels; adding a new Section 6.08.315
10 to provide restrictions relating to dog hobby kennels; adding a new Section 6.08.317 to
11 provide that money received pursuant to Chapter 6.08 shall be credited to the Animal Control
12 Fund; amending Section 6.08.350 to increase the minimum fine for first offense violations of
13 Chapter 6.08 from \$25.00 to \$35.00; and repealing Sections 6.08.010, 6.08.040, 6.08.150,
14 6.08.310, and 6.08.350 of the Lincoln Municipal Code as hitherto existing.

15 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

16 Section 1. That Section 6.08.010 of the Lincoln Municipal Code be amended
17 to read as follows:

1 **6.08.010 Definitions.**

2 For the purpose of this chapter, the following words shall have the following meanings:

3 **Anti-escape** shall mean any housing, fencing, or device which a dog cannot go over,
4 under, through, or around.

5 **Chief animal control officer** shall mean the individual designated by the Director to
6 supervise animal control officers and other animal control employees, and have responsibility
7 and authority for enforcing all provisions of this chapter.

8 **Dog hobby kennel** shall mean the house, yard, enclosure, premises, or place where
9 more than three dogs over the age of six months are kept, harbored or maintained pursuant
10 to a permit issued under this chapter.

11 **Dog** shall mean an animal of the canine or canidae family, regardless of sex.

12 **Guard dog** shall mean any dog that is utilized to protect commercial or industrial
13 property or place of business.

14 **Inoculation, vaccination, or vaccination for rabies** shall mean the inoculation of a dog
15 with a vaccine approved by the department for use in the prevention of rabies.

16 **Kennel** shall mean the house, ~~store~~, yard, enclosure, or place where four or more dogs
17 over the age of six months are kept, harbored, or ~~kept~~ maintained.

18 Section 2. That Section 6.08.040 of the Lincoln Municipal Code be amended
19 to read as follows:

20 **6.08.040 Issuance of License.**

21 The Director shall issue a dog license to the owner of such dog upon payment of the
22 license fees as hereinafter required and upon, and only after, presentation of a valid rabies

1 certificate showing that the dog has been immunized for rabies within the prior three-year
2 period if the last vaccination was with chick embryo low egg passage flury vaccine, or
3 showing that the dog has been immunized for rabies within the prior one-year period if the
4 last vaccination was with killed or inactivated vaccine. The intervals of any other anti-rabies
5 vaccines shall follow the latest recommendations of the United States Public Health Service.

6 The license shall set forth the following information:

- 7 (a) The name and address of the owner of the dog;
- 8 (b) The license number of the tag issued for such dog;
- 9 (c) The breed, age, color, name and sex of the dog;
- 10 (d) Such other information as the City may require for the purpose of
11 identification.

12 At the same time, the Director shall deliver to the owner a metallic license tag, furn-
13 ished by the city, bearing the license number shown on the license. Such tag shall be of such
14 design as shall be adopted by the Director, having die-stamped thereon the license number,
15 the words "Lincoln ~~dog tag~~," and the year for which issued. The metal tag so issued shall be
16 attached to and kept upon the collar or harness of the dog so licensed.

17 Said license shall be issued in duplicate, the original of which shall be delivered to the
18 owner of the dog, who shall retain it as evidence of the dog's license; the duplicate shall be
19 retained by the Director.

20 ~~All money received by the Director under this chapter shall be deposited with the City~~
21 ~~Treasurer, who shall credit such money to the Animal Control Fund.~~

1 Section 3. That Section 6.08.150 of the Lincoln Municipal Code be amended
2 to read as follows:

3 **6.08.150 Sanitary Regulations.**

4 The owner of any dog shall keep any yard, enclosure, shelter structure, or dwelling
5 wherein such dog is kept in a clean and sanitary condition so as not to give off offensive odors
6 which are a source of discomfort to persons residing in the vicinity thereof. The owner of any
7 dog shall not allow offal, manure, and waste material of such dog to accumulate or remain in
8 the yard, pen, enclosure, shelter structure and/or dwelling, upon which such dog resides or
9 is confined in any manner which is conducive to the breeding or attraction of flies, mosqui-
10 toes, or other noxious insects or in any manner which endangers the public health or safety
11 or which creates an unhealthy environment. The maintenance or permitting of any of the
12 foregoing conditions on any premises is hereby declared to be a public nuisance. The owner
13 of any dog shall in a sanitary manner remove or dispose of all offal, manure, and waste
14 material accumulating from such dog at least once every ~~seven~~ five days.

15 Section 4. That Section 6.08.310 of the Lincoln Municipal Code be amended
16 to read as follows:

17 **6.08.310 Dog Kennels Prohibited; Exceptions.**

18 It shall be unlawful for any person to keep, or permit to be kept upon any premises
19 occupied or under such person's charge or control, any dog kennel. Provided, however, the
20 provisions of this section shall not apply to the animal shelter, animal research facilities, dog
21 hobby kennel permit holders, persons who fit the exception provided in Section 6.08.311, or

1 to animal hospitals operated by veterinarians duly licensed under the laws of the State of
2 Nebraska, keeping dogs for others for treatment or boarding.

3 If upon the trial of the offense mentioned in this section it shall appear to the county
4 judge that the person be guilty as charged in said complaint, said county judge shall, in
5 addition to the usual judgment of conviction, declare said dog kennel a public nuisance, order
6 the party or parties so convicted to abate said nuisance forthwith, and in the event the party
7 or parties convicted shall fail to do so, order the Health Director or the Chief of Police to
8 remove to the animal shelter said dog or dogs so kept and harbored in violation of this section,
9 there to be impounded and disposed of in accordance with the terms of this chapter. The cost
10 of such impoundment and disposal shall be borne by the convicted person.

11 Section 5. That Chapter 6.08 of the Lincoln Municipal Code be amended by
12 adding a new section numbered 6.08.311 to read as follows:

13 **6.08.311 Dog Kennel Violation; Exceptions.**

14 Any person who shall, at the time of annexation, own, keep, or harbor more than three
15 dogs over the age of six months of age on land which is subsequently annexed by the City of
16 Lincoln, may continue to harbor or keep such dogs on such land, in a manner consistent with
17 Section 6.08.315, until such time as the death or transfer of such dogs reduces the number
18 possessed to the limit provided for in this chapter, or for a period of one year, whichever time
19 is shorter; provided, however, such person must, within thirty days of the date of annexation,
20 license each dog then owned and provide proof of rabies vaccination therefor. A person
21 owning in excess of three dogs over the age of six months, pursuant to this exception, will be

1 treated as a dog hobby kennel permit holder for purposes of regulating the manner in which
2 the dogs must be maintained.

3 Nothing in this section shall prevent a finding that the premises upon which such dogs
4 are kept is a nuisance, and such finding may subject the owner of such dogs to relinquish all
5 or some such dogs forthwith.

6 Section 6. That Chapter 6.08 of the Lincoln Municipal Code be amended by
7 adding a new Section 6.08.313 to read as follows:

8 **6.08.313 Dog Hobby Kennel; Permit.**

9 Application for a dog hobby kennel permit shall be made to the Director on forms
10 provided by the Department. Upon payment of the permit fee, and upon presentation of proof
11 that each dog for which the permit is sought is currently licensed and vaccinated against
12 rabies, said permit shall be issued, provided:

13 (a) Each such permit shall expire on December thirty first of the year in which
14 issued. All permit renewals shall be due January first of each year and shall expire on
15 December thirty-first following. Renewal permits are subject to the same restrictions and
16 compliance standards as set forth for original permits.

17 (b) The fee for a permit and for a renewal permit shall be \$30.00.

18 (c) No permit shall issue to any applicant if such applicant owns, keeps, or harbors
19 a dangerous dog or potentially dangerous dog.

20 If the Director believes all or any of the above requirements have not been met, the
21 Director shall refuse to issue or renew such permit and shall notify the applicant of such
22 decision in writing by mailing such notice, by certified mail, to the address listed on the

1 applicant's most recent application. Upon such notification, and after the expiration of eleven
2 days from the date of such notice, the determination shall be final and binding upon the city
3 and upon the applicant unless, within ten days after notice is mailed, the applicant requests,
4 in writing, a review of the determination by the Director. Such written request shall be filed
5 with the Director. Review shall be had within fifteen days (exclusive of weekends and
6 holidays) of the filing of the written request therefor, unless the Director and applicant agree
7 to a later review date. At such review the applicant may testify and present any written
8 statements or documentary evidence relevant to the determination. The Director shall make
9 a final and binding determination after such review within thirty days from the date of the
10 review. The applicant may appeal any final determination as provided herein to the district
11 court as provided by law.

12 Section 7. That Chapter 6.08 of the Lincoln Municipal Code be amended by
13 adding a new section numbered 6.08.315 to read as follows:

14 **6.08.315 Dog Hobby Kennel; Restrictions.**

15 (a) Dog hobby kennel permits are not transferable from one person to another
16 person or place;

17 (b) A permit holder shall notify the Director of any change in ownership of any one
18 or all of the dogs subject to the permit, any change in ownership of the premises subject to
19 the permit, the death of any dog subject to the permit, the addition of any dog or other animal
20 to the premises, and any other material change in circumstance that may affect the status of
21 said permit;

1 (c) A dog hobby kennel shall limit dog reproduction to no more than one litter of
2 offspring per license per year per female dog.

3 (d) The Director, after proper identification, shall be permitted to enter at any
4 reasonable time any premises of any dog hobby kennel permit holder for the purpose of
5 making inspections to determine compliance with this title.

6 (e) Failure to maintain the premises in compliance with the law, or failure to make
7 payment of the permit fee, or failure to maintain proof and provide such to the department
8 documenting that each dog has been properly licensed and vaccinated against rabies, or a
9 finding that any dog on the premises is a dangerous dog or potentially dangerous dog, may
10 result in immediate termination of the dog hobby kennel permit by the Director.

11 (f) The conviction of any dog hobby kennel permit holder for any crime pursuant
12 to this title may result in the revocation of the dog hobby kennel permit and/or denial of any
13 renewal permit upon a finding by the Director that the health or safety of the community or
14 dogs subject to the permit so requires.

15 If the Director believes all or any of the above requirements have not been met, the
16 Director shall refuse to renew such permit or shall revoke an existing permit, and shall notify
17 the applicant or permit holder of such decision in writing by mailing such notice, by certified
18 mail, to the address listed on the applicant's or permit holder's most recent application or
19 permit. Upon such notification, and after the expiration of eleven days from the date of such
20 notice, the determination shall be final and binding upon the city and upon the applicant or
21 permit holder unless, within ten days after notice is mailed, the applicant or permit holder
22 requests, in writing, a review of the determination by the Director. Such written request shall

1 be filed with the Director. Review shall be had within fifteen days (exclusive of weekends and
2 holidays) of the filing of the written request therefor, unless the Director and requester agree
3 to a later review date. At such review the applicant or permit holder may testify and present
4 any written statements or documentary evidence relevant to the determination. The Director
5 shall make a final and binding determination after such review within thirty days from the date
6 of the review. The applicant or permit holder may appeal any final determination as provided
7 herein to the district court as provided by law.

8 Section 8. That Chapter 6.08 of the Lincoln Municipal Code be amended by
9 adding a new section numbered 6.08.317 to read as follows:

10 **6.08.317** **Fees.**

11 All money received by the Director pursuant to this chapter shall be deposited with the
12 City Treasurer who shall credit such money to the Animal Control Fund.

13 Section 9. That Section 6.08.350 of the Lincoln Municipal Code be amended
14 to read as follows:

15 **6.08.350** **Penalty for Violations.**

16 (a) Unless otherwise provided, any person upon whom a duty is placed by the
17 provisions of this chapter who shall fail, neglect, or refuse to perform such duty, or who shall
18 violate any of the provisions of this chapter, shall be deemed guilty of a misdemeanor and
19 upon conviction thereof shall be punished by imprisonment in the county jail for a period not
20 to exceed three months or by a fine in a sum not more than \$500.00, recoverable with costs,
21 or both, except that each person so convicted shall be fined in a sum of not less than ~~\$25.00~~

1 \$35.00 for the first offense, not less than \$50.00 for a second offense, and not less than
2 \$100.00 for the third offense and each offense thereafter.

3 (b) Each day that a violation of any section in this chapter continues shall constitute
4 a separate and distinct offense and shall be punishable as such. The penalties herein provided
5 shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this chapter
6 provided.

7 Section 10. That Sections 6.08.010, 6.08.040, 6.08.150, 6.08.310, and
8 6.08.350 of the Lincoln Municipal Code as hitherto existing be and the same are hereby
9 repealed.

10 Section 11. That this ordinance shall take effect and be in force from and after
11 its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant

Approved this ____ day of _____, 2001:

Mayor